## FORM FOR USE IN APPLICATIONS

FOR HABEAS CORPUS UNDER 28 U.S.C. \$2254

BILLY GAY 29 19511: 59
Name CABRA, P. MACRETT, CLK U.S. DISTRICT COURT
Prison-Number
EASterLing C.F. 3200 WALLACE DRIVE
CLIO, AIABAMA; ZIP 36017
Place of Confinement
United States District Court <u>Middle</u> District of <u>ALABama</u>
Case No. 5005 WIDDS (To be supplied by Clerk of U. S. District Court)
BILLY GAY ALLS  (Full name) (Include name under which you were convicted)
Continue marcalay of Carlondian CF
(Name of Warden, Superintendent, Jailor, or authorized person
having custody of Petitioner)
and
THE ATTORNEY GENERAL OF THE STATE OF TROY KIN9; 11 South UNion Street
MONTGOMERY, All Bama, 7:19 36130-152, ADDITIONAL RESPONDENT
(if petitioner is attacking a judgment which imposed a sentence to be

served in the <u>future</u>, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the <u>future</u> under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.)

## PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

## INSTRUCTIONS--READ CAREFULLY

.(1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

The Judicial Conference of the United States has adopted, effective 1/1/83, the  $8-1/2 \times 11$  inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All pleadings, etc. filed after 12/31/82 must be on  $8-1/2 \times 11$  inch paper,

- (2) Additional pages are not permitted except with respect to the <u>facts</u> which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court whose address is P. O. Box 711, Montgomery, Alabama 36101
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.
  - \*If you are proceeding in forma pauperis, only the original petition needs to be filed with the Court. PETITION
- 1. Name and location of court which entered the judgment of conviction under attack RANGOLPh COUNTY CIRCUIT COURT OF AIABama
- 2. Date of judgment of conviction  $2-\mu-91$
- 3. Length of sentence Two Life Sentencing Judge DALE Segmest
- 4. Nature of offense or offenses for which you were convicted:

  MURGER And Robbery one
- 5. What was your plea? (check one)
  - (a) Not guilty ( )
  - (b) Guilty (❤)
  - (c) Nolo contendere ( )

    If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: T Plead Guilty To murder AS AGREEMENT, and the Robbery Charge Was Dismiss But I Gut Two Life Sentences Runing Wild

6.	<pre>Kind of trial: (Check one) (a) Jury ( ) (b) Judge only (\(\infty\))</pre>
_	•
/ •	Did you testify at the trial? Yes ( ) No (🔀)
8.	Did you appeal from the judgment of conviction? Yes ( ) No (>>>)
9.	If you did appeal, answer the following:  (a) Name of court
10.	Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes (X) No ()
11.	If your answer to 10 was "yes", give the following information:
	(a)(1) Name of court RANdolph County Cikeuit Court  (2) Nature of proceeding Rule 32 PRoceeding
	TRIPÉFECTIVE ASSISTANCE OF TRIAL COUNSEL
	(3) Grounds raised Motion Challenging A COERCE Guilty Plend
	(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( ) No ( $\times$ )
	(5) Result $N/H$
	(6) Date of result
	mation:
	(1) Name of court Court of Chiminal Appeal
	(2) Nature of proceeding Petition FOR A WRIT OF MAN DAMUS ISSUE
	ON TRIAL COURT
	(3) Grounds raised Seeking AN ORDER FROM CKIMINAL COURT OF ASPEAL? TO ISSUE AN ORDER ON TRIAL COURT to ISSUE AN
	ORDER ON DISTRICT Attorney To Respond on the Rule 32
	Petition that was filed on
	(4) Did you receive an evidentiary hearing on your petition, application
	or motion? Yes ( ) No (💢)
	(5) Result DenieD (6) Date of result Seftember 21 2005
	FILE A APPLICATION FOR REHEARING BACK WITH the COURT OF CRIMINAL APPEAL GROUNDS RAISED, ASK the COURT to
	Reconsider it order Devieding The Petition For Writ of
	mand Amus.
	Result? Denied
	TAte of Result? october 6, 2005

(c) As to any third petition, application or motion, give the same infor-
mation:
(1) Name of Court Alakama Surreme Court
(2) Nature of proceeding Petition for WiRt of CERTIONARI
(3) Grounds raised Petition the Court ARgument in Suffert Appication
FOR REHEARING 3 INEFFECTIVE ASSISTANCE OF COUNSEL PRESENTED
FOR RELIEF 3 APPLICATION FOR REHEARING OF A DECISION ON A
- MANDAMUS Petition? Motion to with DRAW Guilty Plea And
enter A Plea of Not Gulity.
(4) Did you receive an evidentiary hearing on your petition, application
or motion? Yes ( ) No ( $\searrow$ )
(5) Result <u>Devied</u>
(6) Date of result pecember
(d) Did you appeal to the highest state court having jurisdiction the result
of any action taken on any petition, application or motion:
(1) First petition, etc. Yes (💢 No ( )
(2) Second petition, etc. Yes (\(\circ\) No ( )
(3) Third petition, etc. Yes ⟨X) No ( )
(e) If you did not appeal from the adverse action on any petition, applica-
tion or motion, explain briefly why you did not:
State concisely every ground on which you claim that you are being held
State concisely every pround on which you claim that you are being held

12. State <u>concisely</u> every ground on which you claim that you are being held unlawfully. Summarize <u>briefly</u> the <u>facts</u> supporting each ground.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. As to all grounds on which you have previously exhausted state court remedies, you should set them forth in this petition if you wish to seek federal relief. If you fail to set forth all such grounds in this petition, you may be barred from presenting them at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of these grounds for relief, you must allege facts in support of the ground or grounds which you choose. Do not check any of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

	Ground one: With DRAW Guilty Plea
	Supporting FACTS (tell your story briefly without citing cases or
	law): MY ATTORNEY Thomas E. Jone Coekced me IN Plending Guilty
	To the murder Charge: mr Jone Told me that IF I would
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	But on February, 4,1991 when The Tudge Proceeded To Sentence me The Tudge Sentence me To Serve Two
	Consecutive Life Sentence:
	CONTRACTOR DEL
	The second of th
•	Ground two: The PROSECUTE FAILURE TO DISCLOSE Fundence of other
	Witnesses That Could Have PROVE MY Innocent Supporting FACTS (tell your story briefly without citing cases or
	law): MS. Ruthie Jordon State ment That she 9Ave To The
	TNVESTIGATER, BILLY ALLS CAME to MY house At 11:30 Am. Alabama
	time 3 12:30 Georgia Time he Came into my house And set in the
	Scha Chair and Went to Sleep he did not Leave until my hushand
	A.D. CAME home They tAIK Then Billy Alis Left At love o'clock
	P.M. AlaBamo Time; 7:00 P.M. Georgia
	THE THE TENED THE TANK THE TENED THE
<b>→</b>	The Time that they Sty I Kill him, I CAN PROVE WITH Physical tyldrice
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not so presented, and give your reasons for not presenting them. FIRSTOF This is The first offortunity I had To present them. I did not know That I could Affer! And Present These Issues on Affer! on Rule 32 proceeding.  Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes () No court of the name and address, if known, of each attorney who represented you the following stages of the judgment attacked herein:  (a) At preliminary hearing Thomas E. Jone Att At Law P.O. Box 1567 3 Augusta All. Tip 36831		ted to any other court state or federal state briefly what grounds were
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